

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

RICHMOND DIVISION

ROBERT DAVID STEELE, et al.,

Plaintiff,

vs.

JASON GOODMAN, et al.,

Defendant

Case No.: 3:17-cv-00601-MHL

DEFENDANT'S RESPONSE IN  
OPPOSITION TO PLAINTIFF'S MOTION  
IN LIMINE

**DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE**

Defendant Jason Goodman Pro Se respectfully moves this court to deny Plaintiff's Motion in Limine. Plaintiff continues to act in bad faith, refusing to communicate by phone and taking every opportunity to hinder other forms of communication. It is Defendant's belief that Plaintiff's motion in Limine is nothing more than a brazen attempt to prevent relevant evidence from being heard, due to the damning nature of these true facts. This evidence would prove Defendant's innocence in this matter and further prove the veracity of Defendant's allegations of a conspiracy between Plaintiff, his counsel and other third parties.

Signed this 20<sup>th</sup> day of January 2020

A handwritten signature in black ink, appearing to be "JG", written over a horizontal line.

Jason Goodman, Defendant, Pro Se  
252 7<sup>th</sup> Avenue Apt 6s  
New York, NY 10001  
(323) 744-7594  
[truth@crowdsourcethetruth.org](mailto:truth@crowdsourcethetruth.org)

## ARGUMENT

### I. PLAINTIFF'S MOTION SEEKS TO ELIMINATE CRUCIAL EVIDENCE AND WITNESSES WITHOUT CAUSE

The motion in limine states that Goodman “never” amended his statement of disclosures. This is an inherently inaccurate reference to an infinite time frame that has not yet expired, and in fact Goodman was unaware that this needed to be done prior to a ruling on the Motion to Disqualify. Despite his best efforts, Goodman’s pro se status greatly complicates his ability to locate appropriate local rules and appropriately act on them. An amended disclosure statement has been filed concurrent with this response.

Apart from this procedural deficiency, Plaintiff offers no substantial reason why Biss and Cornwell should be excluded as witnesses. Biss and Cornwell are critical witnesses in this matter as their participation in the conspiracy to attack Goodman’s reputation while bringing multiple lawsuits against him is a fundamental aspect of this action.

When a “motion in limine lacks the necessary specificity with respect to the evidence to be excluded” the Court should “reserve judgment on the motion until trial when admission of particular pieces of evidence is in an appropriate factual context.” Nat’l Union Fire Ins. Co. v. L.E. Myers Co. Grp., 937 F. Supp. 276, 287 (S.D.N.Y. 1996); see also Wechsler v. Hunt Health Sys., Ltd., No. 94 Civ. 8294(PKL), 2003 WL 21998980, at \*3 (S.D.N.Y. Aug. 22, 2003); Baxter Diagnostics, Inc. v. Novatek Med., Inc., No. 94 Civ. 5520(AJP), 1998 WL 665138, at \*3 (S.D.N.Y. Sept. 25, 1998) (denying motions in limine to exclude “all ‘evidence of Baxter’s 2 Case 1:12-cv-02826-DLC Document 237 Filed 05/14/13 Page 4 of 9 financial condition’” and “evidence on its punitive damages claim” because they “lack[ed] ‘the necessary specificity’” (citation omitted)). In National Union Fire Insurance, the court rejected a party’s attempt pre-trial

1 to exclude “the testimony of various witnesses interpreting the purpose and/or meaning of certain  
2 policy provisions” because the party failed to specify “which evidence should be excluded or  
3 which parties intend to offer such evidence.” 937 F. Supp. at 287. Similarly, in *Viada v. Osaka*  
4 *Health Spa, Inc.*, motions in limine seeking to preclude plaintiffs from offering “writings and  
5 testimony” that defendants alleged were the product of material stolen from a defendant were  
6 denied as vague because the motions did “not specify the writings or potential testimony that the  
7 movants believe should be excluded from the trial.” No. 04 Civ. 2744 VMKNF, 2005 WL  
8 3435111, at \*1 (S.D.N.Y. Dec. 12, 2005). The Magistrate Judge in *Viada* noted that defendants’  
9 lack of specificity meant that “the Court is unable to determine . . . whether the writings and  
10 testimony sought to be excluded from the trial would be inadmissible under any of the provisions  
11 of the Federal Rules of Evidence.” *Id.* As the court in *Wechsler* made clear, “[a] district court is  
12 well within its discretion to deny a motion in limine that fails to identify the evidence with  
13 particularity or to present arguments with specificity.” 2003 WL 21998980, at \*3 (quotation  
14 omitted). Here, the vague and overbroad nature of Plaintiff’s motion in limine mandates its  
15 denial.  
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19 **II. THE EVIDENCE IN QUESTION IS LIKELY TO PROVE RELEVANT**  
20 **AND THUS IS NOT APPROPRIATE SUBJECT MATTER FOR A**  
21 **MOTION IN LIMINE**  
22

23 Even assuming Plaintiff’s motion had precisely defined the contours of the  
24 evidence they seek to exclude, a motion in limine under these circumstances would nonetheless  
25 be inappropriate. “The purpose of a motion in limine is to allow the trial court to rule in advance  
26 of trial on the admissibility and relevance of certain forecasted evidence.” *United States v. Chan*,  
27 184 F. Supp. 2d 337, 340 (S.D.N.Y. 2002) (citing *Luce v. United States*, 469 U.S. 38, 41 n.4  
28

(1984)). “Evidence should be excluded on a motion in limine only when the evidence is clearly inadmissible on all potential grounds.” *Wechsler v. Hunt Health Sys., Ltd.*, 381 F. Supp. 2d 135, 140 (S.D.N.Y. 2003) (quoting *Baxter Diagnostics*, 1998 WL 665138, at \*3). In considering a motion in limine, courts may reserve judgment until trial, so that the motion is placed in the appropriate factual context. See *Nat’l Union Fire Ins. Co.*, 937 F. Supp. at 287 (citing *Hawthorne Partners v. AT&T Tech., Inc.*, 831 F. Supp. 1398, 1400 (N.D. Ill. 1993) (stating that a motion in limine to exclude evidence should be granted only “when evidence is clearly inadmissible on all potential grounds . . . [and] [u]nless evidence meets this high standard, evidentiary rulings should be deferred until trial”)).

### **III. PLAINTIFF HAS DELIBERATELY OBSTRUCTED DISCOVERY**

In a further act of bad faith, Plaintiff’s motion in limine represents that Defendant has “failed to produce copies of any of the documents identified in his Rule 26(a)(1)(A)(ii) disclosures.” In fact, the documents were prepared on August 14, 2019 and Plaintiff was notified during an August 19 telephone conference. During that conference, Defendant requested to formalize parameters and efficiencies related to privilege logs due to the excessively overbroad discovery requests made by Plaintiff. This request was ignored. Further phone calls to Plaintiff went unanswered and a follow up email reiterating this request, sent on August 23 (**EXHIBIT A**) also received no response. The documents are ready, the request for a follow up conference to discuss privilege log parameters remains unanswered.

### **IV. PLAINTIFF HAS FAILED TO PRODUCE THE DOCUMENTS IDENTIFIED IN HIS RULE 26(A)(1)(A)(II) DISCLOSURES**

Defendant requests the court to take notice that at the time of this writing, Plaintiff’s 26a disclosures have not been provided to Defendant. In an email dated October 13,

1 2019 regarding production, Biss stated “The documents are being produced in native and PDF  
2 format, and will be delivered separately via HighTail.” No further information followed until  
3 January 9, 2020. “HighTail” is unknown to Defendant, and upon attempting to retrieve the  
4 documents, Defendant was required to apply for an account and provide personal information.  
5 Defendant immediately emailed Biss (**EXHIBIT B**) to alert him that this method of production  
6 was not acceptable. No response was received and in a response to a follow up email dated  
7 January 13, 2020 (**EXHIBIT C**) Biss claimed to have not received Goodman’s previous  
8 message, stating that the documents would be mailed. As of this filing, one week from the date  
9 of Biss’ email, no documents have arrived. It is Defendant’s belief that Biss is deliberately  
10 confounding communications in an effort to increase these proceedings and create a pre-text for  
11 sanctions motions against Defendant.  
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14 **V. PLAINTIFF IS PROCEEDING IN BAD FAITH**

15 Throughout these proceeding Plaintiff has sought to prosecute his case not based  
16 on facts and evidence and not as a legitimate effort to seek relief from an actual injury. Rather,  
17 Plaintiff and his counsel have repeatedly sought to increase the proceedings with frivolous filings  
18 and false statements in an attempt to entrap Defendant in procedural complications.  
19

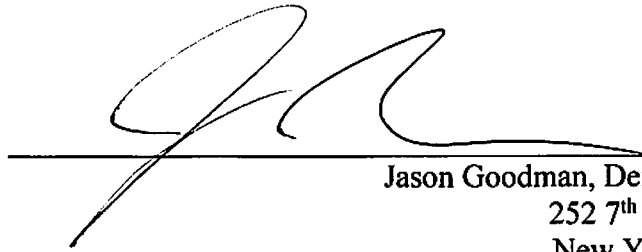
20 In the pre-trial hearing, Biss made clear his desire to avoid phone  
21 communications. Despite the request being denied, Biss has essentially attempted to self-enforce  
22 it. Biss has further complicated email communications by repeatedly including unauthorized  
23 parties on email communications sent to Goodman as seen in the January 13, 2020 message  
24 (**EXHIBIT C**)  
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26  
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**CONCLUSION**

For the foregoing reasons, Defendant respectfully request that Plaintiff's motion in limine be denied.

Dated January 20, 2020

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Goodman', is written over a horizontal line.

Jason Goodman, Defendant, Pro Se  
252 7<sup>th</sup> Avenue Apt 6s  
New York, NY 10001  
(323) 744-7594  
[truth@crowdsourcethetruth.org](mailto:truth@crowdsourcethetruth.org)